

2

SHERYL A. STRAIN
CHAPTER 7 TRUSTEE
575 E. ALLUVIAL AVE., #101
FRESNO, CA 93720
PHONE: (559) 435-2100
FAX: (559) 435-5656

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA

In the Matter of:) Case No.: 10-12574-B-7
)
JESSE R. MARTIN and) DC No.: SAS-2
)
TERRI L. MARTIN) MOTION FOR AUTHORIZATION TO
) SELL PERSONAL PROPERTY
)
Debtors.) Date: August 10, 2011
) Time: 10:00 A.M.
) Dept: B
) Judge: Honorable W. Richard Lee

**TO THE HONORABLE W. RICHARD LEE UNITED STATES BANKRUPTCY
JUDGE:**

1. Sheryl A. Strain duly appointed qualified, and acting Trustee of the above-entitled estate.

2. The above-captioned case was filed under Chapter 7 on March 12, 2010 and on March 12, 2010 Sheryl A. Strain was appointed Chapter 7 Trustee.

3. This Court has jurisdiction over this proceeding by virtue of U.S.C. §1334(a). This a "core" proceeding pursuant to 28 U.S.C. §157(b)(2)(A). This motion is brought pursuant to 11 U.S.C. §363.

4. Among the assets of this estate is a ½ interest in a Note receivable in the Ruth E. Arnold Trust ("Note"), with a current face value of \$64,172.49, payable annually on March of 2011 and continuing until March 2015 and bearing interest at the rate of 5.66% per annum.

1 5. The debtors did not list the Note on their original schedules. They subsequently
2 amended their schedule B showing the value at \$90,000, but the Trustee has determined that
3 the total face value of the debtors' interest in the note as of the date of their filing was
4 \$64,172.97. The debtors claimed an exemption of \$21,625.00 on their amended schedule C,
5 leaving \$42,547.99 of the face value non exempt and property of the estate.

6 6. The Trustee has negotiated a sale to the debtors, Jesse and Terri Martin, for the
7 non exempt equity in the Note. Fourteen Thousand and 00/100 Dollars (\$14,000.00) has been
8 received by the estate, with the remaining balance to be paid annually until March 2015.

9 7. In deciding to accept the proposed offer, the Trustee took into consideration the
10 claimed exemption of \$21,625.00, the fair market value of the Note, the underlying collateral
11 for the Note, and the fact that the monies paid on the Note are generated through farming
12 activities, and therefore in bad crop years, there may not be funds to make the note payment,
13 the time delay for funds paid to claimants if the estate remains open to continue collection of
14 the Note. The Trustee also considered the total unsecured debt per the petition, and determined
15 that this compromise, if approved, will result in a minimum distribution of over 47% if all
16 creditors scheduled filed claims.

17 8. The Trustee believes that sale of the above-described asset on the terms set forth
18 above is in the best interest of the creditors of this estate and all parties in interest.

19 **WHEREFORE**, the Trustee prays that after appropriate notice and opportunity to be
20 heard, she be authorized to sell the above-described asset to the debtors, Jesse R. and Terri L.
21 Martin, for the total sum of \$42,547.49.

22
23 Dated: 7/6/11

/s/ SHERYL STRAIN

Sheryl A. Strain
Chapter 7 Trustee